

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

In re:

Ryan A. Brite

Debtor.

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: Case No.: 17-11735-reg  
: Chapter 7  
: Chief Judge Robert E. Grant  
: \* \* \* \* \*  
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**MOTION FOR RELIEF FROM AUTOMATIC STAY AND ABANDONMENT OF  
PROPERTY BECAUSE STATEMENT OF INTENT PROPOSES SURRENDER OF  
PROPERTY AND NOTICE OF OBJECTION DEADLINE WITH 30-DAY WAIVER  
(FIRST MORTGAGE)**

The creditor, Nationstar Mortgage LLC d/b/a Mr. Cooper, hereby moves the Court, pursuant to 11 U.S.C. § 362(d) and § 554, to lift the automatic stay and abandon from the estate the following real property:

4894 N 400 W, Decatur, IN 46733, (hereinafter the "Property").

In support of the motion, the Creditor states the following:

1. Ryan A. Brite (hereinafter "Debtor") filed a Chapter 7 case on September 7, 2017, (hereinafter the "Petition Date").
2. As of the Petition Date, the Creditor was the holder of a claim secured by the Property, more particularly described in the Mortgage, a copy of which is attached as Exhibit "A".
3. The above described Mortgage was given to secure a promissory note, (hereinafter the "Note"), dated April 4, 2007 and made payable to the Creditor in the original sum of \$64,500.00. A copy of the Note is attached hereto as Exhibit "B".

4. The Creditor perfected an interest in the Property, more particularly described in the Mortgage, recorded in Adams County Recordings Office on April 11, 2007. Evidence of perfection is attached as Exhibit "A".

5. The loan was modified as set forth in the Loan Modification Agreement attached as Exhibit "C".

6. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.

7. As of September 11, 2017, the outstanding principal of the Note was \$60,948.17 and the outstanding interest was \$3,960.66. As of September 11, 2017, the approximate payoff of the loan in question, consisting of the outstanding principal, interest, escrow advances, fees and costs is \$69,428.99.

8. The Property is burdensome and/or of inconsequential value and benefit to the estate. Cause exists to lift the automatic stay under 11 U.S.C. § 362(d)(1) and/or 362(d)(2) for these reasons:

- a. Debtor has no equity in the Property. Creditor believes that the Property has a value of \$70,000.00 based on Schedule D, which is attached hereto as Exhibit "D". The balance on Creditor's first mortgage together with Debtor's claimed exemption in the amount of \$8,761.85 exceeds the value of the Property. Based upon the lack of equity in the Property, Creditor asserts that the Property is burdensome and/or of inconsequential value and benefit to the estate.
- b. The Creditor is not being adequately protected. Per the Note and Mortgage, payments are applied to the last month due. Based on the foregoing, Debtor has failed to make periodic payments to Creditor since May 1, 2016 through October 2017.
- c. Debtor intends to surrender the Property located at 4894 N 400 W, Decatur, IN 46733 according to the Statement of Intent filed.

9. The Creditor hereby waives the right under 11 U.S.C. § 362(e) to a hearing on this motion within thirty (30) days of the date it is filed. Creditor, by counsel, further prays that the fourteen (14) day stay of the order imposed by Bankruptcy Rule 4001(a)(3) be waived.

**PLEASE TAKE NOTICE THAT** any objection must be filed with the Bankruptcy Clerk within **14** days of the date of this notice. Those not required or not permitted to file electronically must deliver any objection by U.S. mail, courier, overnight/express mail or in person at:

**Fort Wayne**  
1300 South Harrison Street  
Room 1188  
Fort Wayne, IN 46802-3435

The objecting party must ensure delivery of the objection to the party filing the motion. If an objection is NOT timely filed, the requested relief and abandonment may be granted.

WHEREFORE, the Creditor moves the Court to enter an order lifting the automatic stay and abandoning the Property, and granting such other relief as appropriate.

Respectfully submitted,

/s/ Edward H. Cahill

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Sarah E. Barngrover (28840-64)  
Edward H. Cahill (0088985)  
Adam B. Hall (0088234)  
John R. Cummins (11532-10)  
Amy E. Gardner (93532)  
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Attorney for Creditor  
The case attorney for this file is Sarah E. Barngrover.  
Contact email is  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from Automatic Stay and Abandonment of Property Because Statement of Intent Proposes Surrender of Property and Notice of Objection Deadline with 30-Day Waiver (First Mortgage) was served on the parties listed below via e-mail notification:

Nancy J. Gargula, One Michiana Square Building, Suite 555, 100 East Wayne Street, South Bend, IN 46601-2349, 574-236-8105

Yvette Gaff. Kleven, Adelsperger & Kleven, LLP, 111 West Wayne Street, Fort Wayne, IN 46802

Justin R. Wall, Attorney for Ryan A. Brite, Wall Legal Services, 309 North Jefferson Street, Huntington, IN 46750, justin@walllegalservices.com

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from Automatic Stay and Abandonment of Property Because Statement of Intent Proposes Surrender of Property and Notice of Objection Deadline with 30-Day Waiver (First Mortgage) was served on all parties listed on the attached creditor matrix via regular U.S. Mail, postage prepaid on October 16, 2017.

/s/ Edward H. Cahill

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